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Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: Preserving the Open Internet Broadband Industry Practices
GN Docket No. 09-191 - WC Docket No. 07-52
Reply to comments of Verizon and Verizon Wireless on under-developed issues in the open
internet proceeding dated October 12, 2010

Dear Chairman Genachowski and Members of the Commission:

Thank you for the opportunity to reply to comments. I hereby submit to the Federal Communications Commission (FCC) a reply to comments dated October 12, 2010 made by Verizon and Verizon Wireless on under-developed issues in the open internet proceeding.

Verizon and Verizon Wireless (V/VW), concerning wireless broadband and so-called “managed” or “specialized” services have proposed an approach that they claim will “best enhance consumer welfare” claim that:

1. There is no “evidence of an actual problem that needs to be addressed by regulation;
2. THE COMMISSION SHOULD NOT APPLY NEW REGULATORY REQUIREMENTS TO WIRELESS BROADBAND OR MANAGED OR SPECIALIZED SERVICES AND INSTEAD SHOULD PROMOTE INFORMED CONSUMER CHOICE SO CONSUMERS CAN DECIDE WHAT SERVICES THEY WANT AND CONTINUE TO DRIVE THE DEVELOPMENT OF THE BROADBAND MARKETPLACE;
3. THE WIRELESS BROADBAND MARKETPLACE IS UNIQUE AND COMPETITIVE, AND THERE IS NO NEED FOR REGULATION; and that
4. ANY RESTRICTIONS ON MANAGED, SPECIALIZED, OR OTHERWISE DIFFERENTIATED SERVICES WOULD UNDULY LIMIT CONSUMER CHOICE AND INNOVATION AND INVESTMENT.

Their claims are not supported by the facts, nor are they in line with the public good.

I. ACTUAL PROBLEMS EXIST THAT NEED TO BE ADDRESSED BY REGULATION

There are several actual problems of a serious nature that need to be addressed by regulation. Many others have mentioned many of these. Instead of listing each of them again, I will restate the fundamental “problem” that V/VW does not appear to appreciate: actual citizens want, expect and need the FCC to make and enforce actual, intelligent, effective and appropriate regulations related to interstate and international communications by radio, television, wire, satellite and cable and that existing regulations are outdated.

Part of the problem / opportunity is that communication forms are coming together on the Internet; however, existing regulations do not address the various technical and market-related complications that have arisen in light thereof. People now access the Internet via radio waves, broadband cable and dial-up services. They watch “TV” on the Internet, listen to the “radio” on the Internet, make ‘phone’ calls on the Internet, read newspapers and other media on the Internet, and engage in countless other significant online activities, including paying their cable, phone and other utility bills. US citizens are exposed to radio waves from wireless phones as they access the Internet, and cable and phone lines that carry internet services pass across state lines and through public property, so, regardless of public investments, the public will be affected by Internet communications and how they are accessed for as long as the Internet exists.

II. THE COMMISSION SHOULD MAKE AND APPLY APPROPRIATE REGULATORY REQUIREMENTS TO WIRELESS BROADBAND and MANAGED OR SPECIALIZED SERVICES

V/VW asserts that instead of applying new regulatory requirements to wireless broadband and managed or specialized services, the FCC should instead “promote informed consumer choice so consumers can decide what services they want and continue to drive the development of the broadband marketplace.”

This suggestion, which is based on faulty reasoning is not helpful or appropriate because as communication forms have been coming together on the Internet, a variety of market imperfections have cropped up and will continue to do so. Market imperfections impact virtually every product and transaction in some way, generating costs that interfere with choices rational individuals make, or would make, in the absence of the imperfection. The ‘market’ is not able to avoid or mitigate these on its own; however smart regulations can, and thus, should be created and enforced to address them. For example, many consumers face too few choices related to Internet service (e.g., some do not have access to broadband or wireless Internet services, and/or can only obtain services from one provider). Consumers in this situation need protection from companies that hold a monopoly in their service area. At the same time, smart, effective regulations can actually encourage new companies to start offering services in areas where services are currently limited. In either case, it is important to keep in mind that choices do not do much good if no good choice exists and/or if it takes too long to figure out what the various choices are. That Internet-related services are at their nascent stages and are poised to unleash a new wave of investment and innovation that will result in new and different customer choices that no one can foresee is all the more reason to come up with clear, smart regulations right now, so investors and innovators can base their plans on them.

By all means, such regulations could and should restrict Internet Service Providers (ISPs) from slowing or blocking or otherwise interfering with a consumer’s ability to access and use legal Internet sites and services. However, they need not prevent ISPs from charging based on objective, measurable criteria, such as actual bandwidth usage. Furthermore, such regulations could and should address externalities in a manner that allows the marketplace to employ true cost pricing (including costs related to the eventual disposal of devices used to access communication services).

III. THE WIRELESS BROADBAND MARKETPLACE NEEDS TO BE REGULATED

V/VW claims that the wireless broadband marketplace is unique and competitive. Though evidence to the contrary exists (including that broadband services are not uniformly available), even if these claims are true, they are not really an issue, because just because something is “unique” or “competitive” does

not mean it does not warrant regulation (atomic energy is unique as compared to other energy forms and food markets are somewhat competitive, however, each of these warrant special regulations).

The wireless broadband marketplace needs to be regulated by the FCC because it is so very important to the health, safety and well-being of the USA and thus needs protection from corporate greed, folly and mistakes. Lack of regulation and/or deregulation in other industries has time and time again resulted in market conditions that foster gross, undue corporate profits at the public's expense; tax payers all too often bear the cost of corporate greed, folly, mistakes and externalities.

IV. RESTRICTIONS ON MANAGED, SPECIALIZED, OR OTHERWISE DIFFERENTIATED SERVICES COULD IMPROVE CONSUMER CHOICES, AND FOSTER INNOVATION AND INVESTMENT

Sound, clear regulations can help innovators and investors create fair guidelines in which they will all need to operate. They can actually benefit corporations, investors, and innovators by helping them manage uncertainty and by taking out some of the guesswork. They can help increase consumer choices by encouraging companies up to focus on creating attractive products and services based on guidelines, principals and conditions that protect and foster the consumer, and preventing companies that would otherwise do so from exploiting consumer vulnerabilities and market imperfections that harm the public good.

As a consumer, small business owner and director of CCIvIL.org, I urge the FCC to not be fooled or bullied by those who claim that the FCC can or should not make and enforce regulations that protect consumers and keep the Internet as open, safe and civil as possible. I urge the FCC to classify all providers of Internet connection services in the same way, whether they offer wired or wireless service, because customers increasingly rely on these different types of networks to use the same devices and access the same content on the Internet.

Sincerely,

Susan Jacobi

Director and Founder of CCIvIL.org